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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/391,294	09/07/1999	RICHARD C. WILSON	CBC-122-C	8383

7590 12/16/2004

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EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/391,294
Filing Date: September 07, 1999
Appellant(s): WILSON ET AL.

MAILED
DEC 16 2004

670-3002

Darlene Condra
For Appellant

Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences on 08/01/2003, a supplemental Examiner's Answer is set forth below:

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/21/01.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement that there are no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is substantially correct.

Issue No. 1: Are claims 1-5 unpatentable under 35 U.S. C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based?

Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences on 08/01/2003 and in view of *Ex Parte Eggert*, Appeal No. 2001-0790 (Bd. Pat. App. & Inter. May 29, 2003) the rejection of claims 1-5 under 35 U.S. C. 251 as being improper recapture is withdrawn in this supplemental action. The absence in reissue claim 1 of the direct relationship of the first and second portions to the length of the corner of the building represents subject matter broader than the scope of the patent claim; however, reissue claim 1 is still narrower in scope than the subject matter conceded unpatentable (i.e., claim 1 before the "length of the first and second portions" limitation was added to obtain allowance). Reissue claim 5 broadened the patent claim by removing all of the intended use language. However, the claims are narrowed in critical aspects added to define over the prior art rejection (e.g., "said first and second flanges extending continuously along the entire length of the first and second portions" and "a cornered outer surface parallel to said cornered inner surface"). As such, this issue no longer needs to be considered.

Issue No. 2: Are claims 1, 2, and 4-5 unpatentable under 35 U.S.C. 102(b) over U.S. Patent No. 2,091,316 to Hauck is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 2, 4 and 5 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Claims 1, 2, and 4 rise and fall together.

Claim 5 rises and falls independently of claims 1, 2, and 4.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

2,091,316

Hauck

08-1937

(10) *Grounds of Rejection*

The following ground of rejection is applicable to the appealed claims:

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b). This rejection is set forth on page 5 of the Examiner's Answer mailed on 04/27/01.

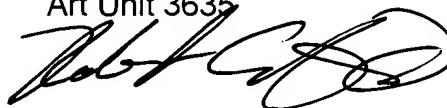
(11) Response to Argument

Pages 7 and 8 of the Examiner's Answer mailed on 04/27/01 provide the response to applicant's arguments.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert J Canfield
Primary Examiner
Art Unit 3635



Robert Canfield
December 10, 2004

Conferees

CF

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